

## HOUSE BILL NO. 290

INTRODUCED BY B. WADDILL

A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING ~~CONCEALMENT OR DECEPTION, DECEPTION,~~  
~~COERCION, AND~~ SURPRISE IN THE DEFINITION OF "FORCE" "WITHOUT CONSENT" IN THE CONTEXT  
OF SEXUAL INTERCOURSE WITHOUT CONSENT; AND AMENDING SECTION 45-5-501, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 45-5-501, MCA, is amended to read:

**"45-5-501. Definition.** (1) As used in 45-5-503, the term "without consent" means:

(a) the victim is compelled to submit by force against the victim or another; or

(b) the victim is incapable of consent because the victim is:

(i) mentally defective or incapacitated;

(ii) physically helpless;

~~(iii) OVERCOME BY DECEPTION, DECEPTION, COERCION, OR SURPRISE;~~

~~(iii)~~(iv) less than 16 years old; or

~~(iv)~~(v) incarcerated in an adult or juvenile correctional, detention, or treatment facility and the perpetrator is an employee, contractor, or volunteer of the facility and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search.

(2) As used in subsection (1), the term "force" means:

(a) the infliction, attempted infliction, or threatened infliction of bodily injury or the commission of a forcible felony by the offender; ~~or~~ OR

(b) the threat of substantial retaliatory action that causes the victim to reasonably believe that the offender has the ability to execute the threat; ~~or~~

~~(c) the use of concealment or surprise to overcome the victim."~~

- END -